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C O N F I D E N T I A L SECTION 01 OF 02 AMMAN 003114

SIPDIS

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TAGS: PHUM JO

SUBJECT: STATE OF DIVORCE LAW IN JORDAN: MILD IMPROVEMENT

Classified By: A/DCM DOUGLAS A. SILLIMAN. REASONS: 1.5 (B) and (D)

1. (SBU) SUMMARY. The Government of Jordan issued a cabinet decree in December 2001 that allows certain Muslim women, within a narrow legal framework, to bring a divorce action in Sharia Court. To date, over 500 women have filed for divorce under the new law; so far the court has granted divorces in 2 of these cases. While this law has not been formally approved by the parliament and is narrowly tailored, it appears to be a step towards a more accommodative Sharia legal apparatus for Jordanian women in insufferable marriages. END SUMMARY.

BACKGROUND

2. (SBU) Previously, a woman could not file for divorce absent the consent of her husband. The husband could grant such consent expressly in the original marriage contract or any time thereafter. However, a woman could, under extraordinary circumstances, convince a Sharia judge to grant a divorce on her behalf. Under the old law, there were four grounds through which such a divorce could be granted: proof (to an extremely high degree of certainty) that her husband had physically abused her, abandonment or imprisonment of the husband for one year or more, refusal to pay living expense, and 'ongoing disputes' between the couple. Such divorces were granted sparingly on behalf of women in extreme cases of physical abuse or abandonment, and the legal process often took years at exorbitant cost.

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CABINET DECREE'S GENESIS IN THE HADITH, EGYPT
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3. (C) The cabinet decree is based on a passage in the Hadith, where the Prophet Mohammad granted a divorce to a woman, provided that she returned her dowry (in that case a garden) to her husband. In this passage, the woman told Mohammad that, although her husband was a good man, she did not want to perform her womanly duties with him. She was allowed to divorce her husband. Using this passage as a precedent, Nora Sadat (wife of the late Egyptian President) succeeded in her longstanding effort to establish the right for women to divorce in Egyptian Sharia Court. In a conversation with POLOFF, human rights activist Saeda Kilani said that, although the Islamists in Egypt were miffed about the law, they grudgingly accepted it. The Jordanian decree is based upon the Egyptian law, and allows for a woman to bring a divorce action if she is able to repay her dowry and cede all financial benefits from the marriage.

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FASTER DIVORCES FOR SOME WOMEN
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4. (C) The new law allows for women to bring an action independent of her husband or a Sharia judge, and affords them greater expediency. However, as currently construed, the law does not allow a large percentage of women to bring a divorce action. Women from wealthier families (who are willing to live with the social stigma of a divorced daughter) may provide the financial backing their daughters need to go forward with a divorce action, but the majority of women do not have such a luxury. If a woman does get past the financial issue, she still must convince a Sharia judge that she has legitimate grounds for a divorce. There are no codified grounds through which a divorce may be granted. However, according to Zarqa social worker Nadia Bushnaq, Sharia Courts are most likely to grant divorces under the new law in cases of life-threatening physical abuse or abandonment. (NOTE: One of the two women who have been granted a divorce under the decree told a local newspaper that she had suffered physical abuse by her husband for 13 years). As for child custody, young children are more likely to be granted to the mother, whereas older children (girls who have begun to menstruate and boys who are 12 years of age) are almost always put in the custody of the father or his family.

LAW DOES NOT COVER CHRISTIAN WOMEN

15. (C) Jordan does not grant civil marriages or divorces, so Christian women must get a divorce via their church's legal apparatus, and may not avail themselves of a Sharia Court. These courts adjudicate divorce actions in accordance with church law. In a meeting with POLOFF, a Roman Catholic woman claimed that, despite years of severe physical abuse, her church would not grant her a divorce. At the same time, her family forbids her from filing criminal action against her husband because it would besmirch the family name.

COMMENT

16. (C) While this new law is a cabinet decree that could potentially be dismissed when parliament returns, there is reasoned optimism among human rights activists that it will become permanent. As the law is rooted in the Hadith and a similar law has passed muster in Egypt (and other Muslim countries), Jordanian Islamists will have a harder time challenging its legitimacy. Currently, judges are only allowing women in worst-case situations to obtain a divorce, but, human rights activists hope, a more liberal interpretation could develop over time. In light of Jordanian traditions and cultural norms, progress is likely to be slow. Nevertheless, this is a tangible step forward in the development of legal options for abandoned or severely abused Jordanian Muslim wives.
Gnehm